

EXHIBIT D

1 JILL SHWINER - 9/11/2020

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK
4 RAFAEL FOX, PAUL)
D'AURIA, and JILL)
SHWINER,)
Plaintiffs,) CIVIL ACTION
v.) NO.
19-CV-4650
STARBUCKS CORPORATION)
d/b/a STARBUCKS COFFEE)
COMPANY,)
Defendants.)
_____)

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13 ORAL DEPOSITION OF JILL SHWINER

14 (TAKEN REMOTELY)

15 Friday, September 11, 2020

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21 Reported by:

22 KIM A. McCANN, RMR, CRR, CSR

23 JOB NO. 183854

24

25

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2 Q. And tell a little about your work
3 experience. What did you do after you finished
4 high school?

5 A. I went to work at Asu, a leather
6 manufacturer at Etienne Aigner, and I was an
7 assistant to the president there. And then after
8 that I went to work for AVP.

9 Q. ADP?

10 A. AVP.

11 Q. Okay. And so what year did you go to
12 AVP?

13 A. 1990.

14 Q. And what was your first job AVP?

15 A. Clerical.

16 Q. And how long did you work -- yeah,
17 how long did you work as a clerical worker at
18 AVP?

19 A. Roughly -- I can't be exact, but I'd
20 say roughly ten years.

21 Q. And after ten years in clerical, did
22 you take on another position at AVP?

23 A. More of a managerial role.

24 Q. Tell me about the managerial role you
25 took an at AVP.

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2 A. We hired some more office staff, so I
3 oversaw the clerical staff and what they were
4 doing in a more supervisory role, and I was
5 taking a more active role in inventory and some
6 of the technicians, what they did, reporting any
7 problems.

8 Q. Okay. So was that approximately 2000
9 you took on a managerial role?

10 A. Yes.

11 Q. And tell me more specifically about
12 your responsibilities in your managerial role.

13 A. Again, I oversaw the office staff and
14 made sure that they were doing their billing
15 correctly, they were doing scheduling correctly,
16 they were keeping on with the customer service
17 calls, that nobody was going off the schedule,
18 and that I was overseeing the technicians to make
19 sure that they were completing their tasks, their
20 jobs, everything completed correctly, that the
21 customers were happy with the service.

22 Q. Okay. And how long did you serve in
23 that managerial role?

24 A. Until I left.

25 Q. Okay. In 2000 -- what year, again,

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2 A. No.

3 Q. What did you work?

4 A. I was on for 24 hours a day.

5 Q. So tell me a typical workday let's
6 say from 2010 to 2018?

7 A. As soon as I'd get up, review any
8 emails that came in, address any problems that
9 may have come up, dispatch any technicians that
10 -- any problems or to any customers that were
11 needing immediate assistance; go into the office,
12 do any paperwork that needed to be done, any
13 other correspondence, go over any problems with
14 any of the office staff that may have come up
15 that request any. It fluctuated, so whatever I
16 was pulled in any direction to do.

17 Q. Anything else that you did on a
18 typical day?

19 A. Sometimes I had to meet with
20 customers and --

21 Q. I'm sorry, I didn't hear you.

22 A. Sometimes I had to go into the city
23 for -- if there was a customer that was
24 experiencing a problem to meet on-site with them
25 and do a walk-through, and then evaluate if there

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2 was a rodent siting maybe where the rodent was
3 coming in from, trap the rodent, remove it, any
4 pest control issues.

5 Q. And what else did you do on a typical
6 day?

7 A. That was pretty much it. It
8 fluctuated. I did not have a set day.

9 Q. Did you typically go into the office
10 at some point during the day?

11 A. Typically, yes.

12 Q. And what time did you usually go in?

13 A. Sometimes between 10:00 and 11:00. I
14 would do some work from home.

15 Q. And when you went in on a typical day
16 between 10:00 and 11:00, when did you typically
17 leave the office?

18 A. Either 9:00 at night.

19 Q. So you in the office for a good ten,
20 twelve hours?

21 A. Yeah. Sometimes during the day, I
22 would have to leave and go on-site to a customer,
23 and then I would return to the office.

24 Q. And how often would you leave the
25 office and go on-site?

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2 Were there any other times that you
3 saw that product other than during that time
4 period?

5 MR. GRAFF: Objection.

6 A. Yes.

7 Q. And when was that?

8 A. The time period that I've seen it
9 since that?

10 Q. Correct.

11 A. Would be -- would be multiple times
12 -- sorry, my dog is barking. There would be -- I
13 saw it frequently in 2012 and on in Starbucks. I
14 did occasionally see it at the Le Pain Quotidien,
15 and that was around 2011.

16 Q. Okay. Anywhere else?

17 A. I can't be exact prior to those
18 dates, but I know that I was aware of it was in
19 2011.

20 Q. Okay. And in 2011 at Le Pain
21 Quotidien, how often do you recall seeing that
22 product?

23 A. I can't be exact, but it was less
24 than ten times. But, again, I can't be exact.

25 Q. Okay. And you said you saw it at

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2 Starbucks starting in 2012, I think you said?

3 A. 2013. I'm sorry.

4 Q. '13. And do you remember -- do you
5 recall how often you saw it at Starbucks from
6 2013 on?

7 A. I can't be exact, but I would say --
8 I -- I can't be exact.

9 Q. Okay. Do you have an approximation?

10 A. I would say an approximation would be
11 at least ten times a year.

12 Q. Ten times per year. And what were
13 the occasions that you would see it?

14 A. That I personally or that I saw
15 photos?

16 MR. GRAFF: Objection.

17 Q. Let's start with personally and then
18 we'll go to photos. Actually, let me rephrase
19 it.

20 When you say you saw it ten times a
21 year, was that both in person and photos?

22 A. I don't -- I don't recall to give an
23 exact number. So I --

24 Q. Okay. So my question is of the times
25 you saw it, were those that you were describing,

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2 were those times you both personally saw it and
3 times that you saw photographs of the product?

4 A. Yes.

5 Q. Both?

6 A. Yes.

7 Q. Got it. And I think you -- I think
8 you said you don't recall the number of times you
9 saw the product personally and the number of
10 times you saw pictures of it; correct?

11 A. An exact number, no.

12 Q. Okay. Again, I think you may have
13 answered this, but you said you read about the
14 product. And my question is: Do you recall when
15 you first started reading about the product, the
16 DDVP product?

17 A. I don't recall.

18 Q. Okay. Do you remember a product
19 called Hot Shot?

20 A. Yes.

21 Q. And what's a Hot Shot?

22 A. Hot Shot is a -- also a dichlorvos
23 product.

24 Q. And are they one in the same?

25 A. Yes.

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2 any more?

3 A. Oh, there was a few downtown.

4 Q. Any recollection where?

5 A. I do. The name is just not coming to
6 -- it's not coming to mind.

7 Q. Okay. Just see if the best you can
8 recall, as you're doing, any other locations you
9 recall seeing the products and when?

10 A. Yeah, I can't be -- I can't be exact.

11 Q. Okay. No problem. On the occasions
12 that you've just shared with us --

13 A. Excuse me. Macy's.

14 Q. Macy's. Okay. And when did you see
15 the Macy's?

16 A. Oh, that -- it was 2016, 2015.

17 Q. All right. Good. Any other
18 locations you recall?

19 A. That -- that's it for what I can
20 recall at this particular time.

21 Q. Okay. And at each of those locations
22 you just mentioned, approximately how long did
23 you stay at the location when you observed the
24 product we're talking about?

25 MR. GRAFF: Objection.

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2 as the tracks.

3 Q. Was AVP responsible for trying to rid
4 the facilities of flies and rodents?

5 MR. GRAFF: Objection.

6 A. We were responsible for addressing
7 any -- alerting any facility issues that were
8 creating living conditions for mice. We would
9 set traps and close any openings and alert to any
10 conditions that were attractive to mice or
11 creating a condition that was conducive to them
12 -- their activity.

13 Q. And flies?

14 A. Flies, yes. It was a partnership
15 with --

16 Q. Any other insects?

17 A. Cockroaches.

18 Q. Anything else AVP was hired to do?

19 MR. GRAFF: Objection.

20 Q. You can answer.

21 A. We were -- yeah, we were hired to
22 control insects. Termites were not part of the
23 contract. Certain insects were excluded from the
24 contract.

25 Q. Anything else?

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2 describe the pest strip product as far as what
3 danger it posed?

4 MR. GRAFF: Objection.

5 Q. You may answer.

6 A. Could you rephrase that?

7 Q. In other words, you testified that
8 the pest strip product shouldn't be in a room
9 where there are people, I think you said.

10 A. That's only on the label. That's
11 what the label said.

12 Q. What else does the label say on it?

13 A. It says -- can you be more specific?

14 Q. Well, in other words, what's your
15 recollection of what is contained in the pest
16 strip product?

17 MR. GRAFF: Objection.

18 A. Dichlorvos.

19 Q. I can't hear you.

20 A. Oh, I'm sorry. Dichlorvos.

21 Q. Yeah.

22 A. That's my understanding.

23 Q. So my question is: Do you have an
24 understanding of what that -- you know, the risks
25 of exposure to that product?

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2 A. Yes. It's as I stated before the --
3 it's the way that the mode of action is of that
4 product.

5 Q. I don't want you to read from
6 anything. Just your recollection.

7 A. No, I'm sorry. It's my phone.

8 Q. Oh, sorry.

9 A. Because it's a -- it affects the
10 neurotransmitters which affect the nervous
11 system. So I'm not a medical doctor, but from my
12 understanding is it can kill you.

13 (Exhibit 12 was marked.)

14 Q. Okay. Let's go to the next exhibit.
15 Take a look at Exhibit 12. Can you take a look
16 at this document?

17 A. Sure. Okay. Yes, I read it.

18 Q. At the bottom there, it says,
19 "Thanks, Jill! Just to follow up. This is what
20 the DM is seeing and will have them removed
21 ASAP."

22 MR. GRAFF: When you say at the
23 bottom there, are you looking at the bottom of
24 the first page of the document?

25 MR. WEBER: The page we were just

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2 I still get.

3 Q. Okay. And I think you said you moved
4 to your home a couple of years ago with your
5 partner?

6 A. 2000 -- yes.

7 Q. Okay. And does your son live with
8 you or not?

9 A. Not right now.

10 Q. Okay. And to the best of your
11 recollection, have you given us all the
12 health-care providers that you've seen over the
13 last five or ten years?

14 A. To the best of my recollection, yes.

15 Q. Okay. Ever see a psychiatrist?

16 A. Yes.

17 Q. When?

18 A. 2000 -- 2011 or '12.

19 Q. Okay. And the purpose for seeing the
20 psychiatrist at that time?

21 A. For the ADD or ADHD.

22 Q. Okay. And did the doctor prescribe
23 medicine for you at the time?

24 A. Yes.

25 Q. Is that the medicine you referred to

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2 A-X-O-S. They're a brokerage firm.

3 Q. And what does he do there?

4 A. He's a operations manager
5 for settlements --

6 Q. Before you were contacted by
7 Mr. Graff, had you considered filing a lawsuit --

8 MR. GRAFF: Objection.

9 Q. Before you were contacted by your
10 attorneys, had you considered filing a lawsuit
11 against Starbucks?

12 MR. GRAFF: Objection.

13 Q. You can answer.

14 A. Well, before I was in contact with
15 the attorneys?

16 Q. Correct.

17 A. I had not. I didn't know that was
18 something I could do.

19 Q. And how would you describe your
20 emotional state of mind right now?

21 A. At this moment, anxiety comes to mind
22 is a word I would use to describe. But I'm from
23 New York, so I'm tough.

24 Q. It goes with the territory.

25 A. Well, it helped with rodent capture.

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2 It's hard to be vulnerable and admit that -- I'll
3 just say that I have a lot of anxiety.

4 Q. Did you have that anxiety when you
5 saw your physician to get the medicines you're on
6 now, the ritalin and the other medicine?

7 A. Ritalin is not a treatment for
8 anxiety.

9 Q. When did you first experience
10 anxiety?

11 MR. GRAFF: Objection.

12 Q. You can answer.

13 A. I can give you an approximate date,
14 year.

15 Q. Yeah, sure.

16 A. It started about 2014, '15 when I was
17 getting, like, the heart palpitations, like, out
18 of nowhere and the chest pain. Like that
19 medication, the calcium channel blocker, that's
20 supposed to help.

21 Q. Right. Now, when you first
22 experienced that anxiety, did you see a doctor?

23 A. Well, I didn't have anxiety before,
24 so I didn't know that was part of anxiety. But I
25 used, like, self help -- I don't want to be on a

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2 lot of medication, so self help to talk myself
3 down and help myself out of any anxiety attack.

4 Q. My question is did you see a doctor
5 in 2018 for anxiety?

6 A. Oh, 2018, I'm sorry. I did not.

7 Q. What about 2017?

8 A. I did not.

9 Q. 2016?

10 A. 2016, no, I did not.

11 Q. What about 2019?

12 A. No, I did not. No, you can't get to
13 a doctor.

14 Q. What about 2020?

15 A. Oh, 2020. I'm sorry. Wrong year.

16 No.

17 Q. Okay.

18 MR. WEBER: I don't have any further
19 questions.

20 MR. GRAFF: I don't have any
21 questions, except just note on the record that we
22 request the right to review and make corrections
23 under Rule 30(b)(1). Thank you.

24 (Time noted - 2:26 p.m.)

25

From: Margaret Kis [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=A6CDA3BFE65848D18D36F05E04D6E347-MKIS@STARBUCKS.COM]
Sent: 9/29/2017 12:46:20 PM
To: jillavptermite@aol.com
Subject: Re: Hot Shots - Pest strips

Shwiner 21
Plaintiff
Jill Shwiner - 183854
09/11/2020(RG)

Ok good

Sent from my iPhone

On Sep 29, 2017, at 11:42 AM, "jillavptermite@aol.com" <jillavptermite@aol.com> wrote:

He has been.

--

Jill Shwiner
AVP Termite & Pest Control of NY
4313 Arthur Kill Road, S.I. NY
(O) 718-967-9800
(C) 732-740-1037

Friday, 29 September 2017, 11:35AM -04:00 from Jill Shwiner avptermitesbux@gmail.com:

----- Forwarded message -----

From: "Margaret Kis" <mkis@starbucks.com>
Date: Sep 29, 2017 10:40 AM
Subject: FW: Hot Shots - Pest strips
To: "Jill Shwiner (avptermitesbux@gmail.com)" <avptermitesbux@gmail.com>
Cc:

IF PAUL FINDS THEM, TOSS THEM OUT,

